

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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| Avista Corporation, |) | Docket No. RT01 -35-005 |
| The Bonneville Power Administration, |) | |
| Idaho Power Company, |) | |
| The Montana Power Company, |) | |
| Nevada Power Company, |) | |
| Pacific Corp, |) | |
| Portland General Electric Company, |) | |
| Puget Sound Energy, Inc., |) | |
| Sierra Pacific Power Company. |) | |

**STAGE 2 FILING AND REQUEST FOR DECLARATORY ORDER PURSUANT
TO ORDER 2000**

**COMMENTS OF THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

I. SUMMARY

The Filing Utilities have made significant progress toward design of a regional transmission organization that is consistent with the characteristics of the Pacific Northwest electricity system and that complies with Order 2000. However, many critically important details are as yet unresolved and the evidence is as yet unclear that the new institution will yield benefits that equal or outweigh its costs and risks. With many important aspects of the proposal still to be defined, and without clear evidence of net benefits, it is not yet possible to say whether formation of RTOWest would be in the public interest of electricity consumers in the Pacific Northwest.

II. BACKGROUND

On March 28, 2002, Avista Corporation, the Bonneville Power Administration, Idaho Power Company, The Montana Power Company (now known as North Western

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Energy L.L.C.), Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc. and Sierra Pacific Power Company (collectively, the “Filing Utilities”) filed with the Commission a “Stage 2 Filing and Request for Declaratory Order Pursuant to Order 2000” (“Stage 2 Filing”). On April 22, 2002, the Filing Utilities filed an “Errata Filing Relating to Stage 2 Filing and Request for Declaratory Order Pursuant to Order 2000.” The filings describe the Filing Utilities’ proposal, under Order 2000¹, to form a regional transmission organization (“RTO”) referred to as “RTOWest.” The filings also request a declaratory order that the proposal complies with all four characteristics and all eight functions required of an RTO asset out in Order 2000.

The Commission required comments on the proposal to form RTOWest and the Filing Utilities’ request for a declaratory order, to be submitted by May 29, 2002. The Washington Utilities and Transportation Commission (“WUTC”) has filed previously a Notice of Intervention in this docket. In the instant filing, the WUTC provides its comments on the proposals made by the Filing Utilities in the Stage 2 Filing.

III.ID ENTITY OF THE WUTC

The WUTC is a state commission having sole jurisdiction to regulate the retail rates, services, and practices of investor-owned electric utilities within the state of Washington pursuant to state law. *Title 80 Revised Code of Washington (RCW)*. In this capacity, the WUTC regulates the retail electric services and rates of Puget Sound Energy, Inc., Avista Corporation, and PacifiCorp.

¹Regional Transmission Organizations, Order No. 2000, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. ¶31,089 (2000).

The WUTC has authority under state law to act:

...as petitioner, intervenor, or otherwise to initiate and/or participate in proceedings before federal administrative agencies in which there is at issue the authority, rates, or practices for transportation or utility services affecting the interests of the state of Washington, its businesses and general public, and to do all things necessary in its opinion to present such federal administrative agencies of all facts bearing upon such issues... *RCW 80.01.075*.

IV. SUMMARY OF WUTC RECOMMENDATIONS

Order 2000 sets out a checklist for regional transmission organizations (“RTO”) that establishes the minimum characteristics and functions for such new institutions. The checklist is necessarily and appropriately general in details about how a proposed RTO should be designed to accomplish these characteristics and functions. The characteristics of electricity systems and the key institutions that make up those systems vary from one region of the country to another. The Commission was wise to lay out broad objectives in Order 2000 and allow for flexibility in regional implementation. In the Pacific Northwest, the formation of a new institution to manage and control transmission of electricity poses challenges that may be unique in the nation. The Filing Utilities and regional stakeholders have worked conscientiously in an effort to develop an RTO structure that draws from and is consistent with the unique characteristics of the Pacific Northwest electricity system.

Our fundamental recommendations to the Commission on the Stage 2 Filing are:

- 1) Do not await the outcome of the Standard Market Design process to provide definitive action or guidance on this Stage 2 RTO West filing.**

We urge the Commission not to condition consideration and action on the RTO West proposal on the outcome of the anticipated Standard Market Design rulemaking.

To do so would require the Pacific Northwest to attempt the impossible: design of an

RTO that complies with a nascent – yet undefined new rule. Moreover, the uncertainty associated with the new standard market design initiative would introduce further uncertainty and risk to the investment climate for generation, transmission, or demand-side infrastructure. We urge the Commission to provide definitive and detailed guidance to the Filing Utilities on the proposal and the details it currently includes, as well as those it does not include, so that work can go forward to clarify and refine the issues that remain.

2) Consider the RTOWest proposal in the physical and institutional context of the Pacific Northwest electricity system.

We urge the Commission to recognize the unique physical and institutional character of the Pacific Northwest electricity system when examining transmission management proposals like RTOWest. Our current system delivers substantial benefits to electricity consumers through a degree of cooperation and coordination that is not replicated elsewhere in the country. Improvements are always possible, but they should build on what is already serving the public well, not dismantle it. We urge the Commission to be mindful of the characteristics of the Pacific Northwest system and to resist the temptation to elevate standardization of form over regional substance when considering the characteristics and details of RTOWest or any other proposal.

3) The Commission should accommodate those characteristics of the RTOWest proposal that are critical and necessary for an RTO to be successful in the Pacific Northwest.

Certain key characteristics contained in the RTOWest Stage 2 proposal are critical and necessary (but may not be sufficient) for the acceptance and successful formation of any new transmission arrangement in the Pacific Northwest. The RTOWest proposal recognizes that:

- a. **Pricingshouldprotectagainstunreasonablecost -shifting.**
- b. **Pricingshouldincludean“exportfee. ”**
- c. **Existingcontractrightsincludingtransmissionrightsnecessaryfor
utilitiestoaccomplishservicetobundledretailloadshouldbe
preserved.**
- d. **Atmost,locationalpricingshouldapplyonlytocongestion
management.**
- e. **ThescopeofRTOfacilitiesshould notinterferewithfacilities
necessaryforretaildistribution.**
- f. **Balancedtransmissionschedulelessshouldberequired.**

V.GENERALCOMMENTSOFTHEWUTC

To set the stage for our comments on the Stage 2 filing, we again describe some of the key characteristics of the Pacific Northwest that make design of a new transmission management structure a challenge.²

Retail consumers in the Pacific Northwest enjoy some of the lowest electricity rates in the United States. Retail service is provided by a mix of investor-owned and publicly owned utilities. In Washington State, 60 percent of retail electricity service is provided by municipal or other publicly owned utilities, all of whom are highly dependant on the power resources and transmission of the Bonneville Power Administration (BPA). Retail service is not deregulated or unbundled in five of the states in the proposed RTOWest service area.³

Geographic features unique to this area –amountainous topography and voluminous rainfall and mountain snowfall –enable the creation of a low-cost electric

² See also, Comments of the Washington Utilities and Transportation Commission. Docket No. RT01-00. November 20, 2000; and, Comments of the Washington Utilities and Transportation Commission. Standard Market Design Working Paper. RM01-12. April 10, 2002.

³ Idaho, Nevada, Utah, Washington, and Wyoming.

system based on hydropower. In an average year, nearly two-thirds of the electricity produced and consumed in the Pacific Northwest comes from hydropower facilities. These facilities are located principally on the Columbia River and its tributaries, but also on other river systems like the Skagit River west of the Cascade Mountains. Many of these facilities are owned and operated by the federal government. Others are owned and operated by investor-owned utilities. Still others are owned and operated by publicly owned utilities and municipalities. While hydropower exists in regions outside the Pacific Northwest, the magnitude of this region's hydropower system, and the degree to which the region's consumers and businesses rely upon it, make the region unique in the country.

The annual hydrology of the Pacific Northwest, and the broad geographic scope of the river systems have posed significant challenges for system operations. For example, the hydropower projects are hydraulically linked; the operation of one affects the operation of others, both upstream and downstream. The projects rely on the same river-flow as fuel. Moreover, the projects are dedicated to multiple uses and must fulfill non-power-related purposes including flood control, recreation, transportation, irrigation, fisheries management, and international treaty commitments. Efficient, coordinated solutions have evolved over the past sixty years to meet these multiple objectives.

Finally, the system is energy-constrained rather than capacity-constrained. The system has a surplus of generator machine capacity and therefore great flexibility to follow electrical loads, but ultimately the annual rainfall and hydraulic storage are insufficient to satisfy total annual electrical energy needs in the Pacific Northwest. The system has evolved to include significant base-load thermal generation (coal, natural gas,

and nuclear). The transmission system interconnects and thereby allows coordination of the hydropower facilities with the base-load thermal facilities, and connects these remote sources of generation to ultimate load centers served by retail utilities.⁴ The majority of the transmission system was built by, and is owned and operated by, BPA whose obligation it is to “integrate and transmit the electric power from existing or additional Federal or non-Federal generating units.”⁵

The coordination and scheduling of hydropower and thermal plant operation among multiple private and public owners, including the federal government, are accomplished through a series of elaborate contractual and international treaty agreements.⁶ Through these agreements, the multiple owners and non-power interests coordinate (cooperate in) the year-to-year, day-to-day, and hour-to-hour operation of the system to optimize power production at lowest cost, while still fulfilling all of the non-power-related purposes of the river systems. To facilitate coordinated system operation and to facilitate low-cost, reliable service to retail loads, the agreements, including transmission contracts, confer complex rights among retail utilities, hydropower and thermal plant owners, and the federal government.⁷ The benefits of four powers systems are optimized primarily through coordination and cooperation, not through competition.

The distinctive characteristics and advantages of the Pacific Northwest electricity system do not mean that the system is immune from problems. Nor do these facts prove

⁴In addition, significant transmission transfers capability between the Pacific Northwest and Southern California was constructed beginning forty years ago to take advantage of the load diversity between summer-peaking California and the winter-peaking Pacific Northwest.

⁵16 U.S.C. 838(b) *et seq.*

⁶These agreements include: The Columbia River Treaty between the United States and Canada; The Pacific Northwest Coordination Agreement; and the Mid-Columbia Hourly Coordination Agreement.

⁷These rights facilitate inter- and intra-regional capacity and energy exchanges, opportunities to transmit hydropower generation compelled to operate for non-power reasons, and transmission of both energy and capacity to fulfill international treaty obligations.

that the system cannot be made better. Increasing volumes of wholesale power trade are causing strain on the transmission system. Few upgrades to the transmission system have occurred over the last 20 years, although the BPA plans to construct a number of new projects to reinforce the system over the next few years. Changes in the management, planning and expansion, and pricing of the transmission system may help address existing problems and any new problems that may occur in the future.

The Filing Utilities have worked diligently, and we believe in very good faith, to develop a proposal that both complies with the checklist set out by the Commission in Order 2000, and that comports with the unique physical and institutional character of the Pacific Northwest electricity system. This has been no small task. Thousands of hours and millions of dollars have been devoted by the staff of the Filing Utilities and by critically affected regional parties over the past two years to build the proposals included in the Stage 1 and Stage 2 RTOWest filings. The fruit of these efforts is a proposal that protects, in many key and absolutely necessary respects, important aspects of the region's electricity system and the rights of parties with both federal and state statutory obligations within that system. We will inventory some of those key characteristics below.

However, in many other key and absolutely necessary respects, the RTOWest proposal lacks critically important details. The proposal is still very much a work in progress. After two informational briefings provided to us by the Filing Utilities on May 10, 2002, and May 20, 2002, we must conclude that the present lack of detail in critical

areas prevents ultimate judgment of the proposal as a whole. We will comment on the nature and importance of some of these yet-to-be-resolved details below.

For us, the ultimate test of the RTOWest proposal will not be whether the proposal complies with Order 2000. The ultimate test will be whether the formation of RTOWest is in the public interest of the citizens of Washington State. We are duty-bound by our responsibility under Washington law to regulate, consistent with the public interest, the operation of the three Filing Utilities under our jurisdiction (Puget Sound Energy, Inc., Avista Corporation, and PacifiCorp). As we noted in our comments on the Stage I RTOWest filing⁸, Washington law prohibits these utilities from transferring, or assigning the control of, assets currently necessary and useful for their service to the public without first having obtained our approval to do so.⁹

Several key factors will bear on the question of whether RTOWest is ultimately in the public interest of Washington's electricity consumers. We noted a number of such factors in our comments on the Stage I filing. Much has happened in the intervening eighteen months, and the lessons of experience allow us to put a finer point on some of the factors we previously identified, and to identify some issues that have only come to light through that experience.

⁸Comments of the Washington Utilities and Transportation Commission. Docket No. RT01 -35-00. November 20, 2000.

⁹"No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties, or facilities whatsoever, which are necessary or useful in the performance of its duties to the public, and no public service company shall, by any means whatsoever, directly or indirectly, merge or consolidate any of its franchises, properties or facilities with any other public service company, without having secured from the commission an order authorizing it to do so." *RCW 80.12.020*.

a. Bene fits must outweigh costs and risks.

We cannot accept the proposition that a new institution representing new administrative and other institutional costs and risks should be formed to achieve benefits that are merely theoretical. Nor should compliance with the checklist in Order 2000 be presumed to demonstrate that benefits outweigh costs and risks. The net benefit to be expected of such a new institution must be realistic and clearly evident. Analyses that seek to predict the future are inevitably assumption-bound and should be viewed with a critical eye. Evaluation of the public interest must consider both qualitative and quantitative factors. Quantitative estimates of benefits and costs are but one of those factors. Nonetheless, such quantitative estimates are important. The analysis prepared by a contractor retained by the Filing Utilities suggests Western Electricity Coordinating Council-wide gross benefits of as much as \$410 million dollars per year from the formation and operation of RTOWest.¹⁰ The Tabors Study estimates appear to be an upper-bound because they rely on the assumption of perfectly cost-efficient hourly dispatch in the RTOWest case — perhaps a desirable outcome in theory, but one very unlikely ever to obtain in practice. Significant criticisms of the Tabors Study have recently surfaced suggesting that errors in the analysis or in its assumptions could, if corrected, cause the estimates of gross benefits to drop to around \$50 million per year.¹¹ These benefits would be offset by the cost to set up and operate RTOWest, estimated by the Tabors Study to fall in the range of \$100 to \$150 million dollars annually.

It is incumbent on the Filing Utilities to answer the questions and criticisms concerning the accuracy and reasonableness of the quantitative estimates of costs and

¹⁰ *RTOWest Benefit/Cost Study*. Tabors Caramanis & Associates. March 11, 2002 (“Tabors Study”).

benefits of RTOWest, including whether the models that have produced the estimates and accurately reflect the characteristics of RTOWest as proposed. In addition, the Filing Utilities will need to be very clear about the nature and magnitude of any other non-quantified benefits of RTOWest, if these are posited to offset the annual costs.

b. The risks are real and we have experienced them first-hand.

The recent history of electricity in the Western United States has taught us, as it has surely taught the Commission, that well-intentioned ideas can have very serious unintended consequences. Disruptions in wholesale power markets in 2000 and 2001 are attributable to a combination of poor institutional design in California's new market structures, possible overt manipulation of those market structures, and an earlier historic drought in the Pacific Northwest hydroelectric system. The consequences of these unanticipated circumstances have been crushing. In Washington, we estimate that retail customers paid nearly \$750 million more for electricity service in 2001 than they did in 1999.¹² The consequences have been worse by an estimated order of magnitude in California. We make these observations to underscore the point that sweeping institutional change involves very substantial and real risks, both to the institutions that are changed and to the retail customers to whom we, and the Commission, bear ultimate responsibility. Even in the days of the Pacific Northwest's disastrous nuclear power program, few if any retail customers experienced rapid rate increases of 50 or more percent. During the upheaval of 2001 many retail customers in Washington did suffer such a consequence. The attempt to design market structures and mechanisms is clearly shown by experience to be a fallible endeavor. Market design failures and manipulation

¹¹ *Corrections to the Benefits/Costs Study for RTOWest*. April 19, 2002.

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are not limited to any one region or market structure. Examples can be found from California, Texas, Pennsylvania, and the United Kingdom.

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If we are to proceed to the formation of a new institution, particularly one for which the gross benefits appear, at least at this point, to be relatively small, we will need to be as certain as practically possible that checks, including effective governance, are in place to protect against disastrous failure. This may prove to be a difficult test to pass; no one can know with certainty all of the circumstances the future may present. But we owe this degree of caution, and we believe the Commission does as well, to electricity consumers who have not asked to face significant new risks. Electricity consumers who are served reliably and at low cost today should not be asked to bear unnecessary burdens of design mistakes in new government-required institutions.

c. Governance and meaningful, effective oversight must be tailored to the total scope and function of the new institution.

The potential scope and risks of RTOWest lead to a third issue -- governance. In our comments on the Stage 1 RTOWest filing, we observed that its proposed governance structure "appears to satisfy the independence requirement of Order 2000," but reserved final judgment "Subject to our own evaluation."

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In retrospect, the Commission's early consideration of governance may have put the cart before the horse. The appropriate nature and form of governance for a new institution affecting the provision of an essential public service depend on the scope and

Customers of Northwest Utilities, et al.

¹² Actual figures will not become available before later this year (2002).

¹³ See, for example: *Reliant Defends Hedging During Test of Market*. Houston Chronicle, May 1, 2002. *PJM Market Players Asked for Probe Into Generators*. Megawatt Daily, May 17, 2002. *Enron linked to California Blackouts*. CBS Marketwatch, May 16, 2002. *Lessons for the U.S.? Transmission Pricing, Constraints and Gaming in England and Wales*. Electricity Journal. January/February, 1997, pp. 17-23.

importance of the institutions' activity and the oversight that is necessary to protect the public. The governance proposed by RTOWest and approved by the Commission appears to meet the test of independence from commercial interests, but that does not answer the question of whether it is also adequate to protect the interests of the public. c. We must make this point again, now, in light of the crushing consequences of institutional failure of designed markets structures that have become apparent through experiences since the Stage 1 RTO Filing. When all of the elements and details of the RTOWest proposal are finally clear, we will want to examine whether governance is appropriate in light of the total scope and function proposed for the new institution.

d. Significant institutional change requires political and public support.

We conclude our general comments with the observation that prospects for successful implementation of a new institutional structure for management of transmission in the Pacific Northwest will depend in no small measure on broad political support for that change within the region.¹⁵ For example, participation by BPA is absolutely necessary because federally owned transmission is the central component of our system. BPA is a government agency accountable through the federal government and the region's Congressional delegation to the public. Assignment of BPA's transmission assets to the RTOWest would transfer control of *public assets* to a private, non-profit corporation whose governance is not a public agency. That prospect has raised

¹⁴Comments of the Washington Utilities and Transportation Commission. Docket No. RT01 -35-00. November 20, 2000.

¹⁵We note in this regard that the Northwest Congressional Delegation expressed skepticism regarding RTOWest in a letter to the Administrator of BPA dated May 1, 2001, saying: "The parallels between what RTOWest is doing on transmission and what California did on electricity deregulation are troubling." In a subsequent April 10, 2002, letter to the Commission, the Delegation observed: "Indeed, we have not reached a final conclusion on whether RTOWest, or any RTO for that matter, makes sense for Northwest consumers. When all is said and done, RTOs must benefit retail rate payers or else they are not worth creating."

concern within the region. The publicly owned utilities that rely on both federal power and federal transmission have significant influence over the role BPA will ultimately play in any new arrangement affecting transmission. We understand that those utilities are currently expressing deep skepticism regarding the RTOWest proposal. We also understand that some larger retail customer groups, including most of the region's major industrial customers, have expressed strong doubts regarding the size and cost of the proposed RTO.

While it may be the case that most interests in the region can agree that improving the efficiency of transmission operation and access are important objectives, consensus has not been reached on the appropriate level of complexity and administrative overhead for a new institutional arrangement. Application of Occam's Razor in these circumstances should not be overlooked.¹⁶ Complex solutions should be rejected in favor of simpler ones. In this regard, we understand that some regional interests, including publicly owned utilities and retail industrial customers, are considering different institutional models to achieve the objectives of transmission system efficiency and access, as an alternative to RTOWest. While we do not know the details of these ideas, and do not by this reference promote any particular alternative model, we view this activity as positive and believe the Commission should as well. These efforts signify meaningful commitment within the region to achieve the goal of efficient transmission and wholesale power markets in a manner consistent with the circumstances of the

¹⁶Mediaeval philosopher William of Occam stated a principle of parsimony to encourage emphasis on simplicity in theories, explanations, or solutions to "shave off" that which is not needed.

Pacific Northwest system. If such efforts bear fruit, we urge the Commission to consider them seriously and not to place form over regional substance.

VI. SPECIFIC COMMENTS OF THE WUTC

We turn now to comments on specific aspects of the Stage 2 Filing. As previously noted, these comments do not constitute our ultimate judgment regarding participation of Avista Corporation, Puget Sound Energy Inc., and Pacific Corp in RTOWest. That judgment will necessarily be based on the evidentiary record we develop if and when these three utilities decide to proceed and to formally seek our approval. We can, however, provide our comments and observations on the institution of RTOWest as it is now proposed.

A. ASPECTS OF THE RTOWEST PROPOSAL THAT ARE CRITICAL AND NECESSARY FOR AN RTO TO BE SUCCESSFUL IN THE PACIFIC NORTHWEST.

A number of key provisions in the RTOWest proposal are absolutely critical and necessary (but may not be sufficient) if any RTO is to be successfully formed in the Pacific Northwest. Bearing in mind that many details have yet to be developed, we include among these critical elements:

1) Pricing should protect against unreasonable cost shifts.

The pricing proposal establishes a “company rate period” during which time the responsibility for recovery of embedded system cost is not shifted among transmission providers for eighty years following the commencement of operations. *Stage 2 Filing at 27 et seq.* The component systems that would form RTOWest have very different embedded costs. A simple melding of all of those costs would cause some customers (and some states) in the region to experience significant increases in transmission cost,

while others would see significant decreases. This would be a politically divisive outcome. The “company rate period” provides a period of stability after which other pricing approaches and transitions can be considered.

2) Pricing should include an “export fee.”

The pricing proposal includes an “external interface access fee” to help ensure that the current level of revenues from short-term and non-firm uses of transmission are not lost and that all users of the system make some contribution to embedded cost. *Stage 2 Filing at 29.* A substantial portion of revenues collected for transmission use today is derived from use of the system to transmit power outside of the proposed RTOWest service area. Since system embedded costs would be collected from loads inside RTOWest, the absence of an “export fee” would cause access fees charged to RTOWest loads to increase inequitably, while export transactions would pay nothing for the use of the system. We agree with the Filing Utilities in their insistence that “all users of the RTOWest transmission system make a fair contribution to its embedded costs.” *Stage 2 Filing at 30.*

3) Existing contract rights including transmission rights necessary for utilities to accomplish service to bundled retail load should be preserved.

The congestion management proposal includes a cataloging of existing rights and the option for current rights-holder to preserve those rights as protection against congestion fees. *Stage 2 Filing at 41 et seq. and Attachment F.* This critical protection ensures that native-load retail customers will not lose the benefit of their utility’s access to the transmission necessary to serve them -- transmission for which those customers have historically paid investment depreciation and return. Utilities with transmission rights

necessary to meet load serving obligations should be allowed, but *not* required, to offer their preserved rights (cataloged transmission rights) or their related congestion hedges (financial transmission options) for auction.

4) At most, locational pricing should apply only to congestion management.

The congestion management plan involves locational pricing in a voluntary, bid-based, day-ahead market. *Stage 2 Filing at 41 et seq. and Attachment F.* This application of locational pricing is for clearing congestion only, and does not extend to full dispatch of the generation system. In this respect, the proposal differs from the way the Commission Working Paper proposes to use locational marginal prices in Standard Market Design.¹⁷ In the Working Paper, we understand the Staff to recommend that nodal prices be used to guide the transmission provider's dispatch of all generation. Such an approach is both unnecessary and impractical in the Pacific Northwest.¹⁸ We note below that the details of the location pricing system for even the limited application proposed in RTOWest are not yet fully developed, so we must reserve judgment on whether locational, bid-based pricing is appropriate, for even the limited purpose of congestion management. In particular, we are concerned about the possibility for abuse of market power where practical alternatives for dispatch are limited to only one or two sellers.

¹⁷ *Notice of Working Paper.* Docket No. RM01-12-67 FR. 13323, 2002.

¹⁸ *See, Comments of RTOWest Filing Utilities On Standardized Transmission Service and Wholesale Electric Market Design.* Docket RM01-12-April 10, 2002; *Comments of the Bonneville Power Administration.* Docket No. RM01-12-April 10, 2002; and *Comments of the Washington Utilities and Transportation Commission.* Docket No. RM01-12-April 10, 2002.

5) The scope of RTO facilities should *not* interfere with facilities necessary for retail distribution.

The proposal does not include RTO control over access to distribution facilities that serve ultimate retail customers. This scope ensures that formation of the RTO does not preempt the decisions made by states concerning retail access and bundled retail service. We believe that the proposed classification of system facilities is satisfactory to provide RTO West with the scope of operational control necessary to fulfill main grid operations. *Stage 2 Filing at 33 et seq.* In particular, the proposed treatment of “Class C” facilities is important to ensure that distribution service to retail customers is not adversely affected.¹⁹

6) Balanced transmission schedules should be required.

The proposal includes the requirement that scheduling coordinators submit only balanced schedules to the RTO. *Stage 2 Filing at 42.* This requirement is particularly important in a region that includes a majority of states with traditional bundled retail service provided by utilities with a statutory service obligation. The balanced schedule requirement leaves an unequivocal obligation with the utility to develop or arrange for resources adequate to meet utility loads. Allowing unbalanced schedules would inevitably confuse the issue of what institution bears the obligation to meet load — the RTO or the utility. We fear that this obligation, and its attendant risks, would migrate to the RTO and ultimately undermine its separation of transmission from generation functions.

¹⁹Class “C” facilities are retail service distribution facilities over which Commission jurisdictional wholesale service to some customers is also provided.

B. CRITICALLY IMPORTANT ISSUES ON WHICH THE DETAILS HAVE YET TO BE FULLY DESCRIBED.

As we have noted previously, a number of aspects in the RTOWest proposal have not yet been fully developed. Some of these will be key to whether the critical and necessary components listed above can be achieved. Once developed, others may raise significant and important issues that have not yet come to light. The following issues require further work and development.

1) Congestion management rules .

The bidding rules for the congestion -management, day -ahead market have not yet been developed or proposed. These rules will be key to whether market -power can be exercised in this limited -purpose market. We strongly agree that this market *should be* limited in purpose to congestion clearing. Even with such limitation, the proposal needs to be thoroughly tested and evaluated for functionality and vulnerability to market manipulation.

2) Contract cataloging .

It remains to be seen whether cataloging of existing contract rights practically can be done. Some contracts may contain only generally specified rights , while others may implement capacity/energy exchanges that will be a challenge to catalog. This exercise is crucial to the critical and necessary principle of preserving existing rights.

3) Details of imbalance and ancillary services bid -markets.

The bidding rules and operation of these market mechanisms are not yet fully developed. Like the congestion clearing market, these markets should be limited in scope and application to the real -time balancing and ancillary services necessary to operate the *transmission system* within reliability criteria. They should not be expanded to serve the

function of providing adequate generation to serve load. Even if these markets are properly limited to these appropriate purposes, the rules under which they will operate will be key to protecting against abuse of market power.

4) Liability and risk management.

The Filing Utilities have worked hard to address the management of risks and financial liability in both the Stage 1 and current Stage 2 filings. They are continuing to work on this issue. Exposure to tort liability and the cost of additional insurance may overwhelm many operational benefits of RTOWest.²⁰ This issue is yet to be resolved but must be resolved before participation in RTOWest by utilities serving retail customers in Washington will be possible.

5) Market Monitoring.

Experience in California, Texas, and other regions with centralized, independent transmission system operators has demonstrated the critical need to monitor markets to recognize, diagnose, and treat market dysfunction. The Stage 2 Filing describes a two-track process for establishing an effective market monitoring function. We agree with the Filing Utilities that a West-wide approach to this issue is appropriate, but we note that the details of such an approach are yet to be developed. In lieu of a West-wide approach, the Filing utilities propose that RTOWest perform the market monitoring function, and that the scope of the function extend beyond the performance and efficiency of markets RTOWest itself operates to include “the effect of the operation and use of the RTOWest transmission system on competitive conditions in the region... and the adequacy and effectiveness of any market design, rule, procedure or action that affects market

²⁰ See, footnote 11 on page 15, and the discussion of liability issues pages 20 and 21 of the Stage 2 Filing.

competitiveness or efficiency.” *Stage 2 Filing at 51.* While we agree that such a function is necessary, we are not confident that RTOWest is the appropriate institution to perform it. The proposed RTOWest market monitor will “have access to all information acquired and maintained by RTOWest in its regular course of business.” *Id.* If RTOWest is to monitor the electricity markets broadly, it may need far more information than it will acquire during its normal course of business operating transmission and running limited-purpose markets for clearing congestion, ancillary services, and real-time balancing. Minimally it would need information on commercial transactions (e.g., bilateral power transactions) and system conditions (e.g., power plant operations and schedules) that it will not necessarily directly control or fully see as a part of its operation of the transmission system. RTOWest needs either to be equipped with the authority to collect this information, or alternatively to limit the scope of its monitoring to the markets and functions it actually controls. At this stage we would lean toward the latter alternative for RTOWest, while strongly supporting the development of a West-wide market monitor that has access to all necessary information about transmission and commercial generation-side conditions and transactions.

VII. CONCLUSION

The Filing Utilities and regional stakeholders have worked hard to develop an RTO proposal designed to complement and not replace the key transmission and power system arrangements that allow the Pacific Northwest electricity system to deliver reliable power to retail customers at some of the lowest rates in the country. We note also the positive efforts of others in the region to develop alternative approaches to improve the efficiency

of the transmission system and wholesale power market by building on the strengths of our existing system. We urge the Commission to provide constructive direction to these efforts while being mindful that many details are yet to be completed. To be successful and accepted, any new institutional transmission arrangement must meet the needs of the region and *add* rather than *subtract* efficiency and value from our already efficient and valuable electricity system. We urge the Commission to resist the temptation to elevate form over substance. Moreover, we urge the Commission to allow the region to focus on existing RTO efforts, rather than be forced to switch tracks and respond to a new standard market design initiative. Finally, formation of RTOWest will require the utilities under our jurisdiction to obtain our approval for assignment of their transmission assets to the RTO. Our review will examine very carefully whether the proposal enhances, undermines, or leaves unaltered our ability to protect the interests of retail electricity consumers in Washington state. Before granting approval, we are duty-bound by state law to find that the new institutional arrangement and its benefits, costs, and risks are in the public interest of Washington citizens and consistent with our statutory authority and obligations.

DATED at Olympia, Washington, this 29th day of May, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK OSHIE, Commissioner